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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *1/26/09*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18 and 21-53* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18 and 21-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *1/26/09* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

The instant application having Application No. 10/589,837 is presented for examination by the examiner. Claims 1-18, 21-42 have been amended. Claims 43-53 have been added. Claims 1-18 and 21-53 are pending and have been examined.

Response to Amendment

Drawings

The newly filed drawings are accepted.

Claim Objections

Claims 1-18 and 21-53 are objected to because of the following informalities:

There are still way too many errors with the claims for Examiner to list every one of them. However, all of the dependent claims fail to correctly identity their parent claims. For example, claim 2, which depends one claim 1, should recite "the method according to claim 1" and not simply "method according to". This will then provide an antecedent basis for all of the dependent claims. The claims also still have European phrasing which does not conform to US practices. For example, see claims 45-53: "method set forth in". Also "characterized in that" is another example found throughout the claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or
composition of matter, or any new and useful improvement thereof, may obtain a patent therefor,
subject to the conditions and requirements of this title.

Claims 39-41are rejected under 35 U.S.C. 101 as directed to non-statutory
subject matter of software, per se. The claim lacks the necessary physical articles or
objects to constitute a machine or manufacture within the meaning of 35 U.S.C. 101. It
is clearly not a series of steps or acts to be a process nor is it a combination of chemical
compounds to be a composition of matter. As such, they fail to fall within a statutory
category. It is at best, function descriptive material per se. **Software must be stored
on computer readable medium and executed by a computer to fall into a statutory
category.** The amended have added the computer readable medium, but a program on
a computer readable medium can do nothing by itself. The instructions of the program
must be carried out by a computer or processor in order to function as claimed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claim 1-18 and 21-53 are rejected under 35 U.S.C. 112, second paragraph, as
being indefinite for failing to particularly point out and distinctly claim the subject matter
which applicant regards as the invention. Examiner would emphasize again that claims
are full of 112 problems which cause a tremendous problem in ascertaining the scope of

the invention. There are too many for the Examiner to point out, but some of the

problems are submitted below. Examiner strongly advices Applicant to carefully review

each claim and make the necessary corrections to expedite prosecution. These

problems on create undo burden for examination.

As per claim 1, the connected security module lacks antecedent basis. Applicant

as submitted that the term "on the fly" is traditionally known. The Examiner is familiar

with what the term means, but its meaning is on of general understanding. There is no

constant, universal, and distinct interpretation of the phrase. Nor can one say that its

meaning will remain constant as technology evolves. Therefore if Applicant intends to

use the term to mean data is read and transferred to memory without an intermediate

medium, he should claim it as so in definitive language which is relevant in the art.

Appropriate correction is required. Many of the other claims use this phrase and they

are likewise rejected.

The digital data reception equipment is commonly misidentified as "the reception

equipment" throughout the claims.

The use of pronouns such as "it" is indefinite. This creates an argument as to

what the antecedent basis is for the pronoun.

The use of the phrase "private flow" is another of mystery and indefiniteness.

The use of the term "and/or" is indefinite because it means both additionally and

alternatively.

As per claim 2, the identifier lacks antecedent basis.

As per claim 7, "said list" lacks antecedent basis.

As per claim 10, "said distributed data" lacks antecedent basis.

As per claim 12, "method according to one of claim 4" is indefinite.

As per claims 21-23 and 48-53, computer code is indefinite in terms of claiming the scope. What does it mean to say some message has the structure of computer language? For instance, the variables changes and there are loops which cause all types of problems in determining the scope of the invention.

As per claim 25, "said card" and lacks antecedent basis.

As per claim 44, it is a new claim, however, there is a strikethrough over the word this.

Again, these are some of the problems found throughout the claims. Many of the claims share limitations in which the problems are duplicated.

Response to Arguments

Applicant's arguments filed 1/26/09 have been fully considered but they are not persuasive. Applicant has argued that both the term "on the fly" is definitive and its function is not performed in Tsuria. Examiner respectfully disagrees. As to the merits of the phrase "on the fly" Examiner reiterates its indefiniteness as states above in the 112 rejection. There is no constant, universal, and distinct interpretation of the phrase. Nor can one say that its meaning will remain constant as technology evolves. The term can simply be misinterpreted or interpreted is various scopes. Especially as technology changes, it is likely that its accepted meaning will change. To avoid this kind of

confusion, the claims should instead have definite language which conveys the

Applicant's invention. Examiner understands the Applicant's definition of the term and

finds that functionality present in Tsuria. Starting in column 2, line 68, Tsuria teaches a

smart card is read into decode memory (column 3, line 1) and in the memory is stored a

signature, key, a seed, which identify the smart card. This immediately memorization is

equivalent to the implied meaning of "on the fly". The unique data flow directly from the

card to the memory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 and 21-53 are rejected under 35 U.S.C. 102(b) as being anticipated

by USP 6,405,369, to Tsuria.

As per claim 1, Tsuria teaches a method for matching digital data reception

equipment (2) with a plurality of external security modules (6, 8) each with a unique

identifier (col. 3, lines 3-15), method characterized in that it comprises the following

steps (col. 1, lines 54-65):

- connecting an external security module (6, 8) to the reception equipment (col. 1, lines

57-60),

- memorizing the unique identifier of the connected security module (6, 8) in

the reception equipment (2), on the fly (col. 1, lines 61-65 and col. 3, lines 1-5).

As per claim 2, Tsuria teaches a check phase consisting of verifying whether or

not the identifier of said module is memorized in reception equipment (2), every time

that an external security module (6, 8) is connected to this reception equipment (2) later

on (col. 3, lines 15-20).

As per claim 3, Tsuria teaches a step of transmitting a signal to the reception

equipment (2) including at least one message to manage memorization of the identifier

of the external security module (6, 8) and/or a check phase management message (col.

3, lines 20-35).

As per claim 4, Tsuria teaches at least one of the following set values: - authorize

memorization, - prohibit memorization, - erase identifiers previously memorized in the

reception equipment (2), - activate or deactivating the check phase (col. 3, lines 27-31).

As per claim 5, Tsuria teaches that said signal also includes the maximum

allowable number of memorized identifiers (col. 9, lines 5-8).

As per claim 6, Tsuria teaches signal includes a reconfiguration set value through

which an updated list of identifiers of external security modules (6, 8) matched with the

reception equipment(2) is transmitted to said reception equipment (col. 7, lines 29-35).

As per claim 7, Tsuria teaches list is transmitted directly to the reception

equipment (col. 6, lines 55-59).

As per claim 8, Tsuria teaches list is transmitted through an external security module (6, 8) connected to said reception equipment (col. 6, lines 40-45).

As per claim 9, Tsuria teaches check phase includes a procedure consisting of disturbing the data processing if the identifier of the connected external security module (6, 8) is not previously memorized in the reception equipment (col. 5, lines 10-15).

As per claim 10, Tsuria teaches data are distributed without encryption or scrambled by an encrypted control word and in that each external security module (6, 8) includes access rights to said data and a decryption algorithm for said control word (col. 5, line s35-40).

As per claim 11, Tsuria teaches said signal is transmitted to a reception equipment (2) in an EMM message specific to an 25 external security module (6, 8) associated with this reception equipment (col. 6, lines 55-60).

As per claim 12, Tsuria teaches a signal is transmitted to a reception equipment (2) in an EMM message specific to this reception equipment (col. 6, lines 55-60).

As per claim 13, Tsuria teaches a given reception equipment (2) said list is transmitted in an EMM message specific to a security module (6, 8) associated with this reception equipment (col. 6, lines 55-60).

As per claim 14, Tsuria teaches a signal is transmitted to a group of reception equipment (2) in an EMM message specific to a group of external security modules (6, 8) associated with said reception equipment (col. 6, lines 55-60).

As per claim 15, Tsuria teaches signal is transmitted to a group of reception equipment (2) in an EMM message specific to said group of reception equipment (col. 6, lines 55-60).

As per claim 16, Tsuria teaches a given group of reception equipment (2), said list is transmitted in an EMM message specific to a group of external security modules (6, 8) associated with said reception equipment (col. 6, lines 55-60).

As per claim 17, Tsuria teaches said check signal is transmitted in a private flow processed by a dedicated software executable in each reception equipment as a function of the identifier of the external security module associated with said reception equipment (col. 6, lines 55-60).

As per claim 18, Tsuria teaches a given group of reception equipment (2), said list is transmitted in a private flow to each reception equipment (col. 6, lines 55-60).

As per claims 21, 22, and 23, Tsuria teaches EMM are formatted to convey to the decoders and security card, which content is available to the particular subscriber and his equipment (col. 6, lines 55-60). The particular format is not a patentable limitation but rather a design choice.

As per claim 24, Tsuria teaches identifiers of external security modules (6, 8) are grouped in an encrypted list (col.2, lines 29-30).

As per claim 25, Tsuria teaches reception equipment (2) includes a decoder and the external security module (6, 8) includes an access control card (6) in which information about access rights of a subscriber to digital data distributed by an operator

is memorized, and in that matching is done between said decoder and said card (6).

(col. 2, lines 46-50).

As per claim 26, Tsuria teaches that the reception equipment (2) includes a

decoder and the external security module (6, 8) includes a removable security interface

(8) provided with a non-volatile memory that can cooperate firstly with the decoder, and

secondly with a plurality of conditional access control cards (6) to manage access to

digital data distributed by an operator, and in that matching is done between said

decoder and said removable security interface (col. 1, lines 55-60 and col. 2, lines 45-

55).

As per claim 27, Tsuria teaches the reception equipment (2) includes a decoder

provided with a removable security interface (8) with a non-volatile memory that can

cooperate firstly with said decoder, and secondly with a plurality of conditional access

control cards (6), and in that matching is done between said removable security

interface (8) and said access control cards (col. 2, lines 45-55).

As per claim 28, Tsuria teaches the data are audiovisual programs (col. 1, line

50).

As per claim 29, Tsuria teaches can be matched with a plurality of external

security modules (6, 8) to manage access to digital data distributed by an operator,

characterized in that it includes means of memorizing the identifier of 15 each external

security module (6, 8) connected to it, on the fly (col. 1, lines 61-65 and col. 3, lines 1-

5).

As per claim 30, Tsuria teaches it comprises a decoder and in that the external security module (6, 8) is an access control card (6) containing information about access rights of a subscriber to said digital data, matching being done between said decoder and said card (col. 2, lines 45-55).

As per claim 31, Tsuria teaches a decoder and in that the external security module (6, 8) is a removable security interface (8) provided with a non-volatile memory and that is designed to cooperate firstly with said decoder, and secondly with a plurality of conditional access control cards (6), to manage access to said digital data, matching being done between said decoder and said removable security interface (col. 1, lines 55-60 and col. 2, lines 45-55).

As per claim 32, Tsuria teaches a decoder provided with a removable security interface (8) with a non-volatile memory and that is designed to cooperate firstly with said decoder and secondly with a plurality of conditional access control cards (6) and in that matching is done between said removable security interface (8) and said access control cards (col. 2, lines 45-55).

As per claim 33, Tsuria teaches a plurality of external security modules (6, 8) to manage access to audiovisual programs distributed by an operator, each external security module (6, 8) having a unique identifier and including at least one data processing algorithm, decoder characterized in that it includes means of memorizing the identifier of each external security module (6, 8) connected to it, on the fly (col. 1, lines 61-65 and col. 3, lines 1-5).

As per claim 34, Tsuria teaches external security modules (6, 8) are access control cards (6) in which information about access rights of a subscriber to digital data distributed by an operator are stored (col. 2, line 38).

As per claim 35, Tsuria teaches external security modules (6, 8) are removable security interfaces (8) including a non-volatile memory that can cooperate firstly with the decoder and secondly with a plurality of conditional access control cards (6) to manage access to digital data distributed by an operator (col. 6, lines 52-60).

As per claim 36, Tsuria teaches a non-volatile memory and designed to cooperate firstly with a reception equipment (2), and secondly with a plurality of conditional access control cards (6), to manage access to digital data distributed by an operator, each card (6) having a unique identifier and containing information about access rights of a subscriber to said digital data, interface characterized in that it includes means of recording the identifier of each access control card (6) in said non-volatile memory, on the fly (col. 1, lines 61-65 and col. 3, lines 1-5).

As per claim 37, Tsuria teaches of a PCMCIA card on which digital data descrambling software is installed (col. 1, lines 10-15).

As per claim 38, Tsuria teaches consists of a software module (col. 6, lines 50-54).

As per claim 39, Tsuria teaches a reception equipment (2) that can cooperate with a plurality of external security modules (6, 8) each having a unique identifier and in which information about access rights of a subscriber to digital data distributed by an operator are stored, characterized in that it includes instructions to memorize the

identifier of each external security module (6, 8) connected to said reception equipment

(2), on the fly ((col. 1, lines 61-65 and col. 3, lines 1-5).

As per claim 40, Tsuria teaches instructions to locally generate matching control

parameters of the reception equipment (2) with an external security module (6, 8) as a

function of a signal transmitted to said reception equipment (2) by the operator (col. 6,

lines 55-60).

As per claim 41, Tsuria teaches instructions intended to check if the identifier of

said external security module (6, 8) is memorized in the reception equipment (2), at

each later use of an external security module (6, 8) with the reception equipment (col. 3,

lines 15-20).

As per claim 42, Tsuria teaches System including a plurality of reception

equipment (2) connected to a data and/or services broadcasting network, each

reception equipment (2) being capable of being matched with a plurality of external

security modules (col. 1, lines 61-65 and col. 3, lines 1-5), said system also including a

commercial management platform (1) communicating with the reception equipment (2)

and with said external security modules (6, 8) characterized in that it also includes:

a first module arranged in said commercial management platform (1) and that will

generate matching queries (col. 3, lines 15-20),

and a second security module arranged in said reception equipment (2)

that will process said queries to prepare a matching configuration and to control 5

matching (col. 3, lines 20-35).

As per claim 43, Tsuria teaches said signal is transmitted to a reception

equipment (2) in an EMM message specific to an 25 external security module (6, 8)

associated with this reception equipment (col. 6, lines 55-60).

As per claim 44, Tsuria teaches a signal is transmitted to a reception equipment

(2) in an EMM message specific to this reception equipment (col. 6, lines 55-60).

As per claim 45, Tsuria teaches a signal is transmitted to a group of reception

equipment (2) in an EMM message specific to a group of external security modules (6,

8) associated with said reception equipment (col. 6, lines 55-60).

As per claim 46, Tsuria teaches signal is transmitted to a group of reception

equipment (2) in an EMM message specific to said group of reception equipment (col. 6,

lines 55-60).

As per claim 47, Tsuria teaches said check signal is transmitted in a private flow

processed by a dedicated software executable in each reception equipment as a

function of the identifier of the external security module associated with said reception

equipment (col. 6, lines 55-60).

As per claims 48-53, Tsuria teaches EMM are formatted to convey to the

decoders and security card, which content is available to the particular subscriber and

his equipment (col. 6, lines 55-60). The particular format is not a patentable limitation

but rather a design choice.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. VAUGHAN whose telephone number is (571)270-7316. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. V./

Examiner, Art Unit 2431

/Ayaz R. Sheikh/
Supervisory Patent Examiner, Art Unit 2431